

OD-1

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

ORIGINAL SIDE

APO/2/2024

WITH WPO/1617/2023

IA NO: GA/1/2024

HEMANT BANGUR

VS

KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE UDAY KUMAR

Date : 18th January, 2024.

Appearance:

Mr. Arindam Banerjee, Adv.

Mr. Suvasish Sengupta, Adv.

Mr. Sourojit Dasgupta, Adv.

Mr. Ashis Kr. Mukherjee, Adv.

Mr. S. Prasad, Adv.

... for the appellant.

Mr. Alak Kr. Ghosh, Adv.

Mr. Fazlul Haque, Adv.

... for the KMC.

Mr. Ajay Kumar Chaubey, Adv.

Ms. Anamika Pandey, Adv.

... for Ministry of Defence.

The Court: By consent of the parties the appeal and the application are taken up together and disposed of by this order.

The appellant is an adjacent owner of the plot in which the Municipal Corporation is alleged to have raised construction which is yet to be completed. The writ petitioner has challenged the action of the Corporation in carrying out construction on the adjacent plot. The appellant alleged that the construction is being made unauthorizedly without obtaining sanctioned plan and/or necessary permission from the army.

It is submitted on behalf of the Municipal Corporation that the sanctioned plan has been issued on 22nd November, 2023 and the Corporation has also received no-objection certificate from the army. The learned Counsel appearing on behalf of the army has confirmed issuance of no-objection certificate in favour of KMC. The objections raised by the appellant thus no more survive. The learned single Judge disposed of the writ petition with the observation that it is expected that the Corporation will not proceed with the construction work till a regular sanction is granted by the Building Department of the Corporation and without obtaining prior written consent from the military authority to raise construction. In view of the fact that both the conditions have now been fulfilled, there is no scope to pass any order in this appeal. However, it will be open for the appellant/petitioner to seek appropriate remedy with regard to the sanctioned plan if so advised in accordance with law. KMC may allow inspection of the sanctioned plan if required. This order shall not prevent the appellant to challenge the sanctioned plan in accordance with law.

Accordingly, the appeal and application are disposed of.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)